

## INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into on the dates provided below by and between LANCASTER COUNTY SCHOOL DISTRICT 001, a political subdivision, commonly known as Lincoln Public Schools (hereinafter referred to as "LPS") and the CITY OF LINCOLN, NEBRASKA, a municipal corporation, (hereinafter referred to as "City").

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 *et seq.*, (the "Act"), of the State of Nebraska, provides that two or more public entities may enter into an agreement for shared or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act and other Nebraska laws, and no separate legal or administrative entity is created for any of the cooperative undertakings established under this Agreement; and

WHEREAS, the Parties have purposes for cooperative action as provided herein; and

WHEREAS, the Parties desire to enter into this interlocal cooperative agreement to accomplish those purposes;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by the parties hereto as follows:

1. The Sherman Field Contribution and LPS Sherman Field Use Cooperative.

A. Purpose, Contribution, LPS Usages, and Duration. The purpose of the Sherman Field Contribution and LPS Sherman Field Use cooperative is to create a 10 year cooperative undertaking between LPS and the City. The City is the owner of the Sherman Field property as generally shown on Exhibit "A" which is attached hereto and incorporated herein by this reference as though set forth in full ("Sherman Field"). Sherman Field is primarily a baseball field and facility which is used from time to time by LPS for school and athletic purposes. The City and others are currently undertaking the Sherman Field Forever Project ("Sherman Project") to preserve and upgrade the facilities at Sherman Field and LPS wishes to make a contribution to the Sherman Project and in return for such contribution to obtain an agreement as to its continued use of Sherman Field. As such, the parties agree as follows:

- (i) By August 31, 2012, LPS will make the following contribution: \$196,425 cash to the Sherman Project. It is agreed that such contribution will be made toward the Sherman Project expenses and that the City shall make no income off of the contribution. It is further agreed that this contribution shall be the only cost, capital contribution, expense, reimbursement or rent LPS shall owe or pay to the City for its use of Sherman Field during the overall Term of this Agreement. The above includes, but is not limited to, costs or expenses for electricity, water or other utilities, fuel for mowing the field or striping, mowing, raking or other grounds keeping fees or costs necessary for a first class playable field. During the term(s) of the Agreement, the City agrees to and shall maintain Sherman Field and its existing amenities as a first class baseball field and spectator facility.

- (ii) In return for the LPS agreement to make the above stated contribution, the City agrees for its school programs, practices, and ball games that LPS shall be entitled to the use of Sherman Field for a specified period of time. The LPS use under this agreement shall begin commencing on March 1, 2012 through June 30, 2012 (“first Use Term”) and will continue thereafter for an additional ten years ending on June 30, 2021 (“overall Term”). The overall Term shall consist of additional annual Use Terms which shall commence on July 1, 2011 through June 30, 2012 and on July 1<sup>st</sup> through June 30<sup>th</sup> each year thereafter through June 30, 2021 (“additional Use Term(s)”). During the first and additional Use Terms, LPS shall be entitled to priority use at least consistent with past usage of about 80 games per year. Use shall be coordinated by the Program Administrators taking into consideration program changes, district needs and district growth during any of the Use Terms. Also, during the first and additional Use Terms hereunder, LPS shall be entitled to charge admission fees, sell memorabilia or other non-food related items at any of its contests or during its use of Sherman Field and shall be entitled to keep all funds or revenue generated therefrom.

B. Program Administrators. Except as otherwise provided herein, the agreed upon contributions and Sherman Field usage cooperative undertaking shall be administered by a program administrator from LPS and a program administrator from the City (the “Program Administrator(s)”). The City hereby designates the Director of the Parks and Recreation Department of the City of Lincoln as its Program Administrator for this cooperative undertaking. The School District hereby designates the Director of Facilities and Maintenance as its Program Administrator for this cooperative undertaking. The Program Administrators shall be directly responsible for making decisions, administering and managing this cooperative undertaking. The Program Administrator may be changed from time to time by any party appointing a successor Program Administrator upon no less than seven (7) days advance written notice to the other party.

2. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representatives, successors and assigns.

3. Amendments. This Agreement may only be amended or modified in writing signed by all parties to this Agreement.

4. Further Assurances. Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

5. Execution in Counterparts. This Agreement may be executed on two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

6. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the

remaining provisions.

7. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules and interpretation of contracts generally.

8. Relationship of Parties. Neither the method of computation of funding nor any other provisions contained in this Agreement nor any acts of any party shall be deemed or construed by the City, or by any third person to create the relationship of partnership or of shared venture or of any association between the parties, other than contractual relationships stated in this Agreement.

9. Assignment. In the case of the assignment of the obligations under this Agreement by any of the parties hereto, prompt written notice shall be given to the other party, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other party to this Agreement.

IN WITNESS WHEREOF, each of the parties hereto have executed and delivered this document by its duly authorized officer the date hereinafter shown.

**LANCASTER COUNTY SCHOOL DISTRICT 001**

BY: \_\_\_\_\_  
Authorized Official Date

**THE CITY OF LINCOLN, NEBRASKA**

BY: \_\_\_\_\_  
Authorized Official Date

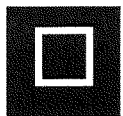
Exhibit "A"  
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**Sherman Field**  
**225 South Street**  
**Lincoln, NE 68502**



N  
↑ Exhibit A

7/3/12



Depicts Sherman Field